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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------|------------------|
| 10/722,709 | 10/29/2003 | Gregory Gamble | 4286-P03309US01 | 3909 |
| 110 | 7590 | 06/15/2005 | | EXAMINER |
| DANN, DORFMAN, HERRELL & SKILLMAN 1601 MARKET STREET SUITE 2400 PHILADELPHIA, PA 19103-2307 | | | LIEU, JULIE BICHNGOC | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2636 | |

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/722,709 | GAMBLE, GREGORY | |
| | Examiner | Art Unit | |
| | Julie Lieu | 2636 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, “like devices”; line 4, “somewhat”; line 5, “may be” are vague and indefinite.

In claim 3, line 2, “may” is indefinite.

In claim 10, line 5, “may be” is indefinite.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Jameson et al. (US Patent No. 4,529,976) (cited by the applicant).

Claim 1:

Jameson discloses decorative cover for smoke detectors and like devices mounted on a wall or ceiling comprising:

- a. a cover member 3 consisting of a generally planer sheet of essentially opaque material of approximately the shape of the device it is covering and somewhat larger than the device to be covered, the outer surface of which cover may be selectively colored, patterned or decorated or left for decoration by a decorator or advertiser, (see fig. 5),
- b. a plurality of resilient connector legs 18 affixed to the inner side of the cover and extending toward the device to be covered in a pattern positioned to engage and deflect against selected distributed points of engagement on the device to be covered, and
- c. cam surfaces 76 at the free ends of the resilient legs positioned to be the surface of engagement and arranged to laterally deflect the respective legs when they contact and are moved against the distributed points of engagement so that frictional forces imposed by the resilience of the legs while deflected are directed to maintain frictional engagement at the respective points of engagement on the device to be covered due to the collective opposed forces of the distributed legs on the engagement points.

Claim 2:

In Jameson's device, at least one of the legs is provided with a shoulder beyond the cam surface to act as a latch so that, when the shoulder passes the structure which provides the points of engagement, the resilience of the legs will urge the shoulder behind that structure in the nature of a latch so that each shoulder on each leg will be in position to oppose forces acting to remove the cover from the device. See fig. 9.

Claim 3:

In the decorative cover in Jameson all of the legs are provided with a similar latching shoulder at essentially the same location so that all legs may move to latch at essentially the same time.

Claim 4:

The cam surfaces 76 in Jameson are oriented to contact the points of engagement which are selected to move each of the legs outwardly so that its resiliency urges it back inwardly.

Claims 5 and 6:

There are at least 3 resilient legs in Jameson's decorative cover and arranged in circular configuration with their cams arranged so that a circular device will deflect the legs outwardly. See fig. 8.

Claim 7:

The cover in Jameson employs 4 legs and the legs are arranged in circular configuration with their cams arranged so that a circular device will deflect the legs outwardly. Fig. 14.

Claim 8:

The device to be covered and the cover in Jameson are circular and the legs are arranged in a circular pattern.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson et al. (US Patent No. 4,529,976) (cited by the applicant).

Claim 9:

Though not clearly stated it appears that the entire smoke detector device in Jameson is molded in one piece from a resinous material which in its finished form will retain its shape but provide sufficient resiliency to permit the legs to be deflected by and frictionally engage the device to be covered since smoke detector housing are usually made of resinous material.

Allowable Subject Matter

6. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Jun 12, 05